

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be reimbursement of \$10,045.00 for date of service 03/13/02.
- b. The request was received on 07/26/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 - b. HCFAs
 - c. EOB
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60
 - b. HCFAs
 - c. EOB
 - d. "Result of Spinal Surgery Second Opinion Process", dated 02/08/02.
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 08/26/02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 08/26/02. The response from the insurance carrier was received in the Division on 09/04/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Letter Requesting Additional Information is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: No position statement found in case file.

2. Respondent: No position statement found in case file.

IV. FINDINGS

- Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 03/13/02.
- The denial code listed on the EOB is “U-UNNECESSARY TREATMENT (WITHOUT PEER REVIEW) \$0.00.”
- Per Rule 133.206 (b)(3), “If a carrier becomes liable for a spinal surgery pursuant of this section, disputes regarding the proposed and concurred upon type of spinal surgery shall be limited to a dispute as to the reasonableness of the fees charged. A carrier may challenge whether medical care related to the spinal surgery is medically necessary. A carrier’s bill review for medical necessity must be performed in accordance with any applicable Rules and regulations regarding utilization review. In dispute resolution proceedings regarding medical necessity, carriers are required to provide documentation indicating compliance with the applicable Rules and regulations regarding utilization review. A carrier shall not unreasonably deny benefits which are medically necessary. The division may recommend administrative violation proceedings when a carrier unreasonably denies benefits.”
- The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
03/13/02	63047	\$5,500.00	\$0.00	U	\$3,540.00	TWCC Rule 133.206 (b)(1)(E)(3)	<p>Since the carrier cannot deny the surgery as not being medically necessary after the completion of the second opinion process, the dispute will be addressed as a fee dispute.</p> <p>The provider filed a TWCC-63 (recommendation for spinal surgery) on 11/27/01. According to the letter dated 02/08/02, “Result of Spinal Surgery Second Opinion Process”, the Commission states: “One of the second opinion doctors agreed with your doctor’s recommendation for the spinal surgery, creating a two-to-one decision in favor of spinal surgery. This means if the carrier does not appeal, they will be responsible (liable) for the reasonable and necessary care related to the spinal surgery. The carrier may appeal this decision by requesting a Spinal Surgery Contested Case Hearing (SSCCH) within ten days of receipt of this letter.” According to the Commission’s Dispute Resolution Information System, the carrier has not appealed the spinal surgery, making the carrier liable. Therefore, reimbursement is recommended in the amount of \$3,540.00.</p>

03/13/02	22842	\$5,000.00	\$0.00	U	\$3,400.00	TWCC Rule 133.206 (b)(1)(E)(3)	<p>Since the carrier cannot deny the surgery as not being medically necessary after the completion of the second opinion process, the dispute will be addressed as a fee dispute.</p> <p>The provider filed a TWCC-63 (recommendation for spinal surgery) on 11/27/01. According to the letter dated 02/08/02, "Result of Spinal Surgery Second Opinion Process", the Commission states: "One of the second opinion doctors agreed with your doctor's recommendation for the spinal surgery, creating a two-to-one decision in favor of spinal surgery. This means if the carrier does not appeal, they will be responsible (liable) for the reasonable and necessary care related to the spinal surgery. The carrier may appeal this decision by requesting a Spinal Surgery Contested Case Hearing (SSCCH) within ten days of receipt of this letter." According to the Commission's Dispute Resolution Information System, the carrier has not appealed the spinal surgery, making the carrier liable. Therefore, reimbursement is recommended in the amount of \$3,400.00.</p>
03/13/02	22612	\$4,500.00	\$0.00	U	\$2,529.00	TWCC Rule 133.206 (b)(1)(E)(3) MFG SGR (I)(D)(b)(i)	<p>Since the carrier cannot deny the surgery as not being medically necessary after the completion of the second opinion process, the dispute will be addressed as a fee dispute.</p> <p>The provider filed a TWCC-63 (recommendation for spinal surgery) on 11/27/01. According to the letter dated 02/08/02, "Result of Spinal Surgery Second Opinion Process", the Commission states: "One of the second opinion doctors agreed with your doctor's recommendation for the spinal surgery, creating a two-to-one decision in favor of spinal surgery. This means if the carrier does not appeal, they will be responsible (liable) for the reasonable and necessary care related to the spinal surgery. The carrier may appeal this decision by requesting a Spinal Surgery Contested Case Hearing (SSCCH) within ten days of receipt of this letter." According to the Commission's Dispute Resolution Information System, the carrier has not appealed the spinal surgery, making the carrier liable.</p> <p>According to the referenced Rule, "the secondary or subsequent procedures are performed through the same incision and related to the primary procedure." The procedure will be reduced 50% of the MAR for secondary or subsequent procedures value according to MFG SGR (I)(D)(1)(b)(i).</p> <p>Therefore, reimbursement is recommended in the amount of \$1,264.50.</p>

03/13/02	20902	\$800.00	\$0.00	U	\$526.00	TWCC Rule 133.206 (b)(1)(E)(3) MFG SGR (I)(D)(b)(i)	<p>Since the carrier cannot deny the surgery as not being medically necessary after the completion of the second opinion process, the dispute will be addressed as a fee dispute.</p> <p>The provider filed a TWCC-63 (recommendation for spinal surgery) on 11/27/01. According to the letter dated 02/08/02, "Result of Spinal Surgery Second Opinion Process", the Commission states: "One of the second opinion doctors agreed with your doctor's recommendation for the spinal surgery, creating a two-to-one decision in favor of spinal surgery. This means if the carrier does not appeal, they will be responsible (liable) for the reasonable and necessary care related to the spinal surgery. The carrier may appeal this decision by requesting a Spinal Surgery Contested Case Hearing (SSCCH) within ten days of receipt of this letter." According to the Commission's Dispute Resolution Information System, the carrier has not appealed the spinal surgery, making the carrier liable.</p> <p>According to the referenced Rule, "the secondary or subsequent procedures are performed through the same incision and related to the primary procedure." The procedure will be reduced 50% of the MAR for secondary or subsequent procedures value according to MFG SGR (I)(D)(1)(b)(i).</p> <p>Therefore, reimbursement is recommended in the amount of \$263.00.</p>
Totals		\$15,800.00	\$0.00				The Requestor is entitled to reimbursement in the amount of \$8,467.50 .

The above Findings and Decision are hereby issued this 20th day of December 2002.

Michael Bucklin
Medical Dispute Resolution Officer
Medical Review Division

MB/mb

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$8,467.50 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 20th day of December 2002.

Carolyn Ollar
Supervisor Medical Dispute
Medical Review Division

CO/mb